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UNCLAS SECTION 01 OF 02 HARARE 001165

SIPDIS

STATE FOR AF/S, AF/EPS, EB/IFD/OIA, L/CID, CA/OCS/ACS

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SUBJECT: 2003 INVESTMENT DISPUTE AND EXPROPRIATION REPORT - ZIMBABWE (CORRECTED COPY)

REF: A. SECSTATE 83098

1B. 02 HARARE 01597

1. Summary: This year's Expropriation Report updates some claimants detailed in the 2002 report, and adds some claimants whose property remains in limbo. As in last year's report, the only claimants are American citizen (Amcit) owners of Zimbabwean real estate, both farming property and rural/wildlife based property. All seven of the identified Amcit-owned properties are threatened by the ongoing Land Resettlement Program, with several owners already off their land and several attempting to hold on. No compensation has been paid to any Amcit property owner for real property which has been seized and settled. End Summary.

The Situation

2. Under the ongoing GOZ Land Resettlement Program, almost all farm or wildlife property owned by non-indigenous landowners has been targeted for compulsory acquisition. As a central tenet of the program, the GOZ has consistently maintained that no compensation will be made for land itself, but that compensation will be made for improvements to the property. Because of the disarray this program has imposed on the value of rural land, as well as the ongoing economic chaos, there is no absolute value for any claim, although values predating the current situation range from US \$200,000 to more than US \$2,000,000. To date, no owners have been compensated for property acquired by the GOZ under this program. Post continues to track the situation concerning seven separate properties owned by American citizens, all of which have received either Preliminary or Final Notices of Acquisition from the GOZ.

3. Because of the current judicial and political chaos, it is difficult to state when (exactly) any landowner was legally dispossessed; many landowners continue to press claims and challenges to acquisition through Zimbabwe's courts. Further, even in instances where Zimbabwean courts issue favorable rulings to such challenges, the police and District Land Administrators usually refuse to enforce the rulings. However, all claims arise out of the GOZ's Land Resettlement Program, which was embarked upon in 2000. It is accurate to state that the majority of Amcit landowners continue to be threatened with acquisition, and most already have been denied control, possession and use of their property. Individual sitreps are provided below.

The Claimants

4. As detailed in last year's Expropriation Report (ref b), Claimant A continues to be denied access to or use of his rural wildlife-based property. The property is located in the district of Mangwe, in the vicinity of Bulawayo. Currently the property is occupied by two large-scale Zanu-PF-connected beneficiaries, and other small claimants continue to graze livestock on the property. Claimant A has received relief through a Zimbabwe High Court ruling. However, when he attempted to have his local authorities enforce the order, he was told by his local land administrator, "you may have won in the courts, but you have lost politically..." Ambassador Sullivan has protested this expropriation both through a Diplomatic Note and through various meetings with GOZ representatives, to no avail.

5. Claimant B, whose situation was also reported (ref b) last year, has now been completely dispossessed of his agricultural property. The property is situated in the district of Salisbury, in the vicinity of Harare. The property has been "pegged" into eighty-four separate A2, or "new commercial farmer," plots. At last review, approximately twenty-one plots were occupied by settlers. Claimant B has also pursued a claim through the Zimbabwe courts and has received no relief. Ambassador Sullivan has protested this expropriation through a Diplomatic Note and through personal communications with GOZ representatives.

6. Claimant C, the final Amcit detailed in last year's

report (ref b), awaits some resolution on acquisition of his small-holding agricultural property through Zimbabwe's chaotic legal system. The property is situated in the district of Goromonzi, in the vicinity of Harare. A "delisting" form was initiated and signed by the Provincial Governor of Mashonaland East, but the two other required signatures -- those of Minister of Local Government Ignatius Chombo and Minister of Lands, Agriculture and Rural Resettlement Joseph Made -- have never materialized, nor are they likely to. In the interim, Claimant C has entered into a sales agreement with a relative of the Chief Justice of Zimbabwe's Supreme Court, and hopes to cut his losses should the sale go through by year's end. Although there are currently no settlers actually residing on or farming the property, Claimant C has left the farm due to personal security concerns. Ambassador Sullivan has protested this expropriation through a Diplomatic Note and through personal communications with GOZ representatives.

17. Claimant D, who had previously twice managed to get his property "de-listed" after receiving initial notices of acquisition (Section 5 notices), received a final notice of acquisition (Section 8 notice) in January, 2003 -- well after the GOZ formally announced that "the land resettlement program is complete" in August 2002. The property (supporting photographic and hunting safaris) is located in the district of Kwekwe, which lies between Harare and Gweru. Claimant D is protesting the acquisition through Zimbabwe's courts. The property consists of 7,618 hectares dedicated as a wildlife conservancy, and is home to a number of endangered black rhino. Claimant D purchased the property in 1985 after the seller offered it to the GOZ and received a "certificate of no present interest," and has since received several Zimbabwe Investment Center (ZIC) certificates indicating formal approval of the conservancy as a wildlife development investment. Claimant D is currently attempting to file for South African residency and has expressed no hope of being allowed to stay on his Zimbabwean property, into which he has invested the majority of his retirement savings -- close to US \$1 million. Ambassador Sullivan has protested this expropriation through a Diplomatic Note and through personal communications with the Governor of that province.

18. Two other Amcits, Claimants E and F, each face complete dispossession, although Post has not received enough details from the property owners to register a formal protest. Claimant E's rural wildlife-based property (supporting photographic and hunting safaris), which was transferred from a Zimbabwean spouse to a trust benefiting the couple's two Amcit children, is located in the district of Wankie (Hwange). The property has reportedly been allocated to an A2 settler from the Hwange area. Claimant E has only been allowed to visit the property under police supervision to remove personal property. Claimant F has two separate pieces of rural wildlife-based property, both in the vicinity of Bulawayo, one of which was ceded to the GOZ for resettlement and one of which is reportedly occupied by settlers. Claimant F resides in the US, and her affairs have been complicated by inheritance issues. She is unable to realize any revenue anticipated from the two properties.

19. One final Amcit, Claimant G, has received a Section 5 notice but is still in possession of the property. The property (supporting photographic and hunting safaris) is located in the district of Bikita, in the vicinity of Chiredzi. This property is dedicated to a 26-farm wildlife conservancy containing both black and white rhinos, and the GOZ has repeatedly stated that it will address "true" conservancies (meaning those owned by multiple owners in a cooperative venture) with a long-promised policy on wildlife concerns. The policy has yet to be articulated. In the meantime, Claimant G continues to engage in dialogue with the GOZ along with other Conservancy spokesmen, and hopes for some resolution for the Conservancy as a whole. However, the GOZ has made some indications that it expects conservancies to "take on partners," which is widely interpreted as a demand that well-connected beneficiaries be paid off in order for the conservancies to continue to operate. As with the first four claimants, Ambassador Sullivan has protested this attempted acquisition through a Diplomatic Note and through personal communications with GOZ representatives.

10. We will continue to monitor the situation of these Amcit property owners, and will continue to offer whatever support we can. Any subsequent developments will be reported as they occur.

Sullivan